

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

5.1 ACRES OF LAND, more or less
situate in Klickitat County, State of
Washington, and MARTIN NYE, et
al.,

Defendant.

NO: 2:12:CV-3145-RMP

FINAL JUDGMENT

Upon consideration of the Stipulation of Just Compensation executed by the
United States of America and all defendants herein at ECF No. 70, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The United States filed its Complaint in Condemnation (ECF No. 1) and
Declaration of Taking (ECF No. 2), and then deposited \$5,800 (“Deposit”) into the
Registry of the Court on December 7, 2012 (ECF No. 4). At that time, title to the
property, as set forth in the Declaration of Taking, vested in the United States.

1 2. The subject property consists of easements over approximately 5.1 acres
2 located in Klickitat County, Washington, as more particularly described in the
3 Declaration of Taking filed herein (“subject property”). The underlying land is
4 owned in fee simple by Centerville Holdings, LLC, a Washington limited liability
5 company created and controlled by Martin N. Nye and Cherie C. Nye.

6 3. In order to settle this condemnation action, the parties agree that the just
7 compensation payable by the United States for the taking of the property and
8 estates described in the Declaration of Taking filed herein (ECF No. 2), together
9 with all improvements thereon and appurtenances thereunto belonging, shall be the
10 sum of \$22,500 inclusive of interest, attorneys’ fees, and costs. *See* ECF No. 70,
11 Stipulation of Just Compensation.

12 4. Judgment shall be, and is hereby, entered against the United States in the
13 amount of \$22,500.

14 5. Seven parties initially named in this suit, State of Washington, Western PCS
15 I Corporation and its successor in interest T-Mobile West LLC, Windy Point
16 Partners, LLC, Windy Point Flats, LLC, Southern California Public Power
17 Authority, and the County of Klickitat, Washington, previously disclaimed any
18 interest in the subject property and were dismissed from this case without
19 prejudice, *see* ECF Nos. 13, 22, 24, 25, 27, 31, 44, 46, 71, and 72. As such, these
20 parties are not entitled to any distribution of the just compensation to be paid for
21 the taking of the Property.

1 6. As the United States has previously deposited \$5,800 as estimated just
2 compensation, the deficiency amount between this amount and the agreed
3 settlement of \$22, 500 is \$16,700. The United States shall pay into the Registry of
4 the Court the deficiency amount of \$16,700. Should said deposit into the Registry
5 not be made within 60 days of the entry of this order of judgment, any unpaid
6 portion of the \$16,700 deficiency shall accrue statutory interest for each day until
7 deposited.

8 7. The said sum of \$22,500 shall be full and just compensation and in full
9 satisfaction of any and all claims of whatsoever nature against the United States by
10 reason of the institution and prosecution of this action and taking of the said lands
11 and all appurtenances thereunto belonging.

12 8. The said sum of \$22,500 shall be subject to all liens, encumbrances, and
13 charges of whatsoever nature existing against the said property at the time of
14 vesting of title thereto in the United States and all such taxes, assessments, liens
15 and encumbrances shall be payable and deductible from the said sum.

16 9. Defendants Centerville Holdings, LLC, and Mr. and Mrs. Nye warrant that
17 on the date of taking, it had exclusive right to the compensation herein, excepting
18 the interest of parties having liens or encumbrances of record and unpaid taxes and
19 assessments, if any, and that no other person or entity is entitled to the same or any
20 part thereof. In the event that any other party is ultimately determined by a court
21 of competent jurisdiction to have any right to receive compensation for the

1 property taken in this case, Centerville Holdings, LLC, and Mr. and Mrs Nye shall
2 refund into the Registry of the Court the compensation distributed herein, or such
3 part thereof as the Court may direct, with interest thereon calculated in accordance
4 with the provision of 40 U.S.C. § 3116, from the date of the receipt of the deposit
5 by Defendant to the date of repayment into the Registry of the Court.

6 10. The parties shall be responsible for their own legal fees, costs, and expenses
7 (including attorney fees, consultants' fees, and any other expenses).

8 11. Upon the United States depositing the deficiency into the Registry of the
9 Court, the Clerk of the Court shall, without further order of this Court, disburse to
10 Defendant Centerville Holdings, LLC, and Mr. and Mrs. Nye, with check payable
11 to:

12 Martin Nye

13 at the following address:

14 Stephen G. Leatham
15 Heurlin, Potter, Jahn, Leatham, Holtmann & Stoker, P.S.
16 211 E. McLoughlin Blvd., Suite 100
Vancouver, WA 98666-0622

17 all sums on deposit in the Registry of the Court, together with any interest earned
18 thereon while on deposit.

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1 12. Following disbursement of the above sums to the Defendants, this case shall
2 be **CLOSED**.

3 This District Court Clerk is directed to enter this order and provide copies to
4 counsel and to Financial Specialist Sheri Wohl.

5 **DATED** this 10 day of September 2015.

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7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 Chief United States District Court Judge
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